IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

WP(C).No. 5088 of 2004(E)

CMA.1/2003 of ADDL.DISTRICT COURT, THRISSUR

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PETITIONERS:

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1. SAJEEV KUMAR, AGED 22 YEARS,
   S/O. LATE VELIYATH VASU, PANAMKULAM DESOM,
   ORAKAM VILLAGE, THRISSUR TALUK.

2. KOCHUMOL W/O. LATE GANAPATHY, VELIYATH
   HOUSE, PANAMKULAM DESOM, OORAKAM VILLAGE,
   THRISSUR TALUK.

3. SUNIL KUMAR S/O. LATE GANAPATHY,
   VELIYATH HOUSE, PANAMKULAM DESOM, OORAKAM VILLAGE
   THRISSUR TALUK.

4. SURESH S/O. LATE GANAPATHY, VELIYATH
   HOUSE, PANAMKULAM DESOM, OORAKAM VILLAGE,
   THRISSUR TALUK

5. SOBHANA D/O. LATE GANAPATHY,
   VELIYATH HOUSE, PANAMKULAM DESOM, OORAKAM VILLAGE,
   THRISSUR TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)
SRI.RENJITH B.MARAR

RESPONDENTS:

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1. BALAN S/O. VETTANATTU VELAYUDHAN,
   PANAMKULAM DESOM, OORAKAM VILLAGE, THRISSUR TALUK.

2. GOPALAN S/O. THARAYIL NARAYANAN,
   VALLACHIRA DESOM, THRISSUR TALUK.

3. SATHEESAN S/O. VETTANATTU BALAN,
   PANAMKULAM DESOM, OORAKAM VILLAGE,
   THRISSUR TALUK.

4. SEBI, THITHI HOUSE, KALPARAMBU DESOM,
ARIPARALM VILLAGE, MUKUNDAPURAM TALUK.

R1 & R3 BY ADV. SRI.P.V.CHANDRA MOHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1 : TRUE COPY OF THE ORDER IN IA NO.1083 OF 2001 IN OS NO.515 OF 1997 ON THE FILE OF THE FIRST ADDITIONAL MUNSIFF COURT, THRISSUR DT.12.4.02.

EXT.P2 : TRUE COPY OF THE DELAY CONDONATION PETITION IA NO.34 OF 2003 IN CMA NO.1 OF 2003 DT.20.12.02.

EXT.P3 : TRUE COPY OF THE ORDER PASSED IN IA NO.34 OF 2003 IN CMA NO.1 OF 2003 ON THE FILE OF THE FIRST ADDITIONAL DISTRICT JUDGE, THRISSUR DT.10.07.03.

EXT.P4 : TRUE COPY OF THE JUDGMENT IN CMA NO.1 OF 2003 DT.10.07.03 ON THE FILE OF THE FIRST ADDITIONAL DISTRICT COURT, THRISSUR.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 5088 OF 2004

Dated this the 8th day of June, 2007

JUDGMENT

In this writ petition under Article 227, the plaintiffs in a suit for injunction, challenges the order by the learned Munsiff dismissing an application for restoration, and also the order of the learned District Judge dismissing the application for condonation of delay and consequently the appeal also.

It is seen that on the day the suit was posted for trial, adjournment was sought for on the ground that the grandfather of the petitioner is no more. The court directed the petitioner to produce death certificate. Though several chances were given, the certificate was not produced. The learned District Judge has passed Ext.P3 after noticing that the submission of the petitioner that the grandfather was no more was false. Mr.G.Sreekumar, counsel for the petitioner submits that the statement in the adjournment application that the grandfather had passed away was by mistake. I do not think that the impugned order passed by the District Judge when guaged by the parameters to be applied for the exercise of visitorial jurisdiction under Article 227, is liable to be interfered with. The Writ Petition will stand dismissed even without waiting for completion of service on all the respondents.

PIUS C. KURIAKOSE, JUDGE

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